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10 *Attorneys for Plaintiffs Timothy DuFour and
11 Kenneth Tanner, on their own behalves
and on behalf of all others similarly situated,*

12 **IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION**

15 TIMOTHY DuFOUR and KENNETH
16 TANNER, individuals, on their own behalves
17 and on behalf of all others similarly situated,

18 Plaintiffs,

19 v.

20 BE., LLC, DYNAMIC SHOWCASES, LLC,
21 California limited liability companies,
22 MONTEREY FINANCIAL SERVICES, INC.,
23 MTS HOLDINGS GROUP, INC., California
corporations, 1901 CO., a Nevada corporation,
BE MARKETING LIMITED, a private limited
company registered in England and Wales,
ERIK DeSANDO, BARRY FALCK, JACOB
STEINBECK, VITALY RASHKOVAN, and
DOES 1-100, inclusive,

24 Defendants.

25 No. 09-03770-CRB

26 Judge Charles R. Breyer

27 **PROPOSED ORDER GRANTING
PRELIMINARY INJUNCTION**

28 Date: November 13, 2009
Time: 10:00 am
Location: Courtroom 8, 19th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

Plaintiff's Motion for Preliminary Injunction came on for hearing before this Court,
and all parties being represented by counsel, the Court having reviewed the Motion, and after
consideration of all papers filed by the parties, and all other matters presented to the Court, the
Court finds that it should grant the Motion. IT IS HEREBY ORDERED THAT

1. A constructive trust is imposed on those sums of money ("Constructive
[Proposed] Order Granting Preliminary Injunction

No. 09-03770-CRB

1 Trust Funds") which are

2 (a) traceable to any sum paid to any of the Defendants under a
3 contract with Be., LLC;

4 (b) for services which were represented to facilitate a child's
5 professional success in the entertainment industry, which
payments were in excess or prior to the child obtaining income
from employment in the entertainment industry;

6 (c) which Be LLC, Dynamic Showcases, Monterey, 1901 Co., and
7 Falck ("Served Defendants") and/or their officers, agents,
servants, employees, and attorneys, and those persons in active
8 concert or participation with them who receive actual notice of
the Court's order, including any other Defendant ("Constructive
Trustees") possess or control (directly or indirectly), or which
9 are held by another for their benefit.

10 2. No later than 10 days after receiving notice of this Order, each
11 Constructive Trustee shall

12 (a) deposit all Constructive Trust Funds in their control as of the
13 date of this Order, or which come into the control of the
14 Constructive Trustees after the date of this Order, into a
15 segregated, interest-bearing fiduciary account maintained by a
16 FDIC-insured financial institution; and

17 (b) to refrain and prevent any transfer of Constructive Trust Funds
18 from such accounts while this Order is in effect.

19 3. Each Served Defendant which has been served or which has appeared in
20 this action shall

21 (a) certify to the Court, no later than 5 days after the date of this
22 Order, that they have provided notice of the Order to any person
23 which any such Served Defendant knows or has reason to
believe has possession or control over Constructive Trust Funds
24 (including depository institution holding any funds on a
Constructive Trustee's behalf);

25 (b) certify to the Court, no later than 10 days after the date of this
Order, that all Constructive Trust Funds in their control as of the
date of this Order, or which come into their control after the date
of this Order, into a segregated, interest-bearing fiduciary
account maintained by a FDIC-insured financial institution; and

26 (c) provide to the Court and to Plaintiffs an accounting of all
27 Constructive Trust Funds, no later than 30 days after the date of
this Order.

28 4. The bond for this injunction shall be set at \$2,000 under Federal Rule of
Civil Procedure 65(c).

1 Dated:

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3 Hon. Charles R. Breyer
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5 United States District Judge
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